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09/895,744	06/29/2001	Regis J. Crinon	042390P11553	1043

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EXAMINER

HUYNH, SON P

ART UNIT	PAPER NUMBER
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2623

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/895,744	Applicant(s) CRINON ET AL.	
	Examiner Son P. Huynh	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-17 and 26-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-17 and 26-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 February 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to amended claims 1-9, 11-17, 26-29 have been considered but are moot in view of the new ground(s) of rejection.

In response to Applicant's argument "Examiner states that Hunter teaches "the predetermined criteria further includes consideration of whether the multimedia content has been deleted or tagged for deletion," as recited originally claim 6 but now incorporated into claim 1..." (page 8, last paragraph and page 9), the examiner respectfully disagrees.

The examiner did not state that Hunter teaches "the predetermined criteria further includes consideration of whether the multimedia content has been deleted or tagged for deletion". Original claim 6 recited "wherein the criteria includes consideration of **at least one** of: ..." Therefore, the Examiner states Hunters discloses at least one of other alternative limitation such as whether the multimedia content is intended to be saved/archived (e.g. content provider/operator schedules to broadcast new release movie because it is intended to be saved at the user station – see include, but not limited to, paragraphs 0139, 0147), or whether the multimedia content has been consumed yet (e.g. according to viewed-content information – figure 10, paragraphs

0107-0118), or how many times the multimedia content has been consumed (e.g. based on consumer demand, viewed-content information – figure 10, paragraphs 0107-0118, 0142-0144) – see page 9 of the Office Action, dated 11/15/2006.

For the reasons given above, rejections on claims 1-9, 11-17, 26-29 are analyzed as discussed below.

Claims 10, 18-25 have been cancelled.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 16-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Hunter et al. (US 2002/0056118 A1)

Regarding claim 16, Hunter discloses a method comprising:

transferring multimedia content to a storage area accessible to a consumer's digital television system (interpreted as transferring movies, music, to area of storage 230 accessible to a consumer's digital television system, see include, but not limited to, figure 10-11, paragraphs 0139-0142, 0147);

deleting existing multimedia content stored in the storage area, wherein deleting is based on an auto management scheme provided by a provider (interpreted as central controller generates "customer catalog" and use it to overwrite the less likely to be purchased movies ahead of those recordings which, by analysis at module 340, who more promise of being viewed by the customer.... when content provider/operator automatically downloads a new movie into the storage module – see include, but not limited to, paragraphs 0144, 0138, 0141), the auto management scheme including a set of predetermined rules and consideration of at least one of whether the multimedia content is intended to be saved/archived (e.g. content provider/operator schedules to broadcast new release movie because it is intended to be saved at the user station – see include, but not limited to, paragraphs 0139, 0147), or whether the multimedia content has been consumed yet (e.g. according to viewed-content information – figure 10, paragraphs 0107-0118), or how many times the multimedia content has been consumed (e.g. based on consumer demand, viewed-content information – figure 10, paragraphs 0107-0118, 0142-0144).

Regarding claim 17, Hunter in view of Suzuki discloses a method as discussed in the rejection of claim 16. Hunter further discloses wherein the multimedia content is at least one of video, audio, and data (interpreted as movie – paragraphs 0139-0142).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-9, 11-15, 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter et al. (US 2002/0056118 A1) in view of Suzuki (US 6,169,570).

Regarding claim 1, Hunter discloses a method comprising:

receiving information obtained from at least one of a consumer and a storage device (interpreted as receiving information such as request/demand/viewed-content information, etc. from at least one consumer – see include, but not limited to, figures 0018-0019, 0092-0093, 0107-0116, figures 10, 11) and a storage (e.g. storage module 230 – figure 11); and

selecting, substantially automatically, a multimedia content to be broadcast to the consumer based on a predetermined criteria set by a provider and the receiving (e.g. content provider or operator selects movies and automatically blanket transmits the movies via direct satellite broadcast to consumers based on predetermined criteria set by provider and the receiving information such as new release, high demand, etc. – see include, but not limited to, paragraphs 0012, 0014, 0017-0019, 0050, 0092, 0093, 0107-0118, 0128, 0139-0142). However, Hunter does not explicitly disclose predetermined criteria including whether the multimedia content has been deleted or tagged for deletion.

Suzuki discloses a multimedia content (content of programs) is selected to be provided to the consumer/user based on a predetermined criteria set by a provider (e.g., head end) and receiving information (reproduction request, retained information), the predetermined criteria including whether the multimedia content has been deleted (whether the program should have already been deleted) – see include, but is not limited to, col. 22, lines 5-48). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hunter to use the teaching as taught by Suzuki in order to improve efficiency in data transmission or storage utilization.

Regarding claim 2, Hunter in view of Suzuki discloses a method as discussed in the rejection of claim 1. Hunter further discloses a selection of the multimedia content is made contemporaneous with the information obtained from at least one of the

consumer and the storage area (interpreted as content provider/operator selects movie to provide to consumer according to viewed-content information/demand obtained from consumers – see include, but not limited to, figures 10-11, paragraphs 0109-0118, 0139-0142).

Regarding claim 3, Hunter in view of Suzuki discloses a method as discussed in the rejection of claim 1. Hunter further discloses wherein the multimedia content is at least one of video, audio, and data (interpreted as movie – paragraphs 0139-0142).

Regarding claim 4, Hunter in view of Suzuki discloses a method as discussed in the rejection of claim 1. Hunter further discloses scheduling the multimedia content to be broadcast to the consumer based on the selecting (interpreted as scheduling the movies to be broadcast to consumer based on the selecting of content provider/operator (for example, movie at the second level of consumer demand after new release movie is transmitted once per day, movie at next level of consumer demand is transmitted once per week, etc. – see include, but not limited to, paragraphs 0107-0116).

Regarding claim 5, Hunter in view of Suzuki discloses a method as discussed in the rejection of claim 4. Hunter further discloses the selecting is based on criteria (interpreted as selecting of movies to be broadcast based on viewed-content information, level of consumer demand, new release, etc. – see include, but not limited to, figure 10, paragraphs 0107-0118, 0139-0142, 0147).

Regarding claim 6, Hunter further discloses wherein the criteria includes consideration of at least one of: whether the multimedia content is intended to be saved/archived (e.g. content provider/operator schedules to broadcast new release movie because it is intended to be saved at the user station – see include, but not limited to, paragraphs 0139, 0147), or whether the multimedia content has been consumed yet (e.g. according to viewed-content information – figure 10, paragraphs 0107-0118), or how many times the multimedia content has been consumed (e.g. based on consumer demand, viewed-content information – figure 10, paragraphs 0107-0118, 0142-0144).

Regarding claim 7, Hunter further discloses receiving is accomplished with at least one of a telephone, a dial up modem, a network, a cable television vision communication, the Internet, and a wireless communication (interpreted as content provider/operator receives consumer demand/request/ or viewed-content information via phone line or Internet – figures 10, 11).

Claims 8 and 9 are directed toward embody the method of claims 1 and 4 in “computer readable medium”. Hunter also system comprises controller and software system for controlling operations such as scheduling transmission (see include, but not limited to, paragraph 0105, 0139, figures 10-11). It would have been obvious to embody the procedures of Hunter in view of Suzuki discussed with respect to claims 1 and 4 in a

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“computer readable medium” in order that the instructions could be automatically performed by a processor.

Regarding claim 11, the method as claimed is broader than method as claimed in claim 1, and is rejected as discussed with respect to claim 1.

Regarding claim 12, the additional limitations as claimed correspond to the additional limitations of claim 2, and are analyzed as discussed with respect to the rejection of claim 2.

Regarding claim 13, the additional limitation of broadcasting is accomplished using opportunistic insertion of data (interpreted as the system operator packages advertisements and movie and then broadcast them for automatically downloading by all customer – see include, but not limited to, paragraph 0147).

Regarding claim 14, the Hunter in view of Suzuki teaches a method as discussed in the rejection of claim 11. However, Hunter in view of Suzuki does not specifically disclose broadcasting is accomplished with a substantially dedicated channel having a fixed transmission bandwidth. OFFICIAL NOTICE is taken that using a dedicated channel having a fixed transmission bandwidth to transmit data is notoriously well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Hunter in view of Suzuki with the well known teaching

in the art in order to improve efficiency in data transmission (for example, transmit data quicker).

Regarding claim 15, the additional limitations as claimed correspond to the additional limitations as claimed in claim 3, and are analyzed as discussed with respect to the rejection of claim 3.

Regarding claim 26, the limitations of the apparatus as claimed correspond to the limitations of the method as claimed in claim 1, and are analyzed as discussed with respect to the rejection of claim 1, wherein multimedia content selector is read on either content provider or operator – see include, but not limited to, figure 11).

Regarding claim 27, Hunter in view of Suzuki discloses an apparatus as discussed in the rejection of claim 26. Hunter further discloses a multimedia content scheduler, configured to communicate with the multimedia content selector, to schedule the multimedia content to be broadcast tow the consumer (interpreted as content scheduling/encoding in central controller, configured to communicate with content provider or operator, to schedule the movie to be broadcast to the consumer according to user demand – figure 11, paragraphs 0107-0119).

Regarding claim 28, Hunter in view of Suzuki discloses an apparatus as discussed in the rejection of claim 26. Hunter further discloses the apparatus further comprises a

processor (e.g., central controller or processor at video content provider/operator location— figure 11) to receive the information and execute instructions that select the multimedia content to be broadcast to the consumer (see include, but not limited to, paragraphs 0107-0119, 0137-0142, 0144, 0147);

a storage area (e.g. storage module 230) configured to allow communication with the processor – figure 11, paragraphs 0139-0142, 0144, 0147).

Regarding claim 29, Hunter in view of Suzuki discloses an apparatus as discussed in the rejection of claim 26. Hunter further discloses DISH 500 system may be utilized to blanket transmit thousands of movies (paragraph 0061). Content scheduling/encoding in central controller schedules to broadcast thousands of movies including new release movies to be broadcast to the consumers (paragraphs 0107-0118). The system also provide on demand movies (paragraph 0137). It is obvious to one of ordinary skill in the art that the apparatus comprises a multimedia content data base server, to store new multimedia content (e.g. new release movies), some of which is selected to be broadcast to the consumer so that the selected movie is provided to user quicker

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sanders (US 2002/0059394 A1) discloses content propagation in interactive television.

Sacilotto, Jr. et al. (US 6,763,523) discloses intelligent transfer of multimedia data files from an editing system to a playback device.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Son P. Huynh

May 9, 2007


SCOTT E. BELIVEAU
PRIMARY PATENT EXAMINER